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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

A. WILLIAM GLOYECK, D.D.S.,

RESPONDENT.

FINAL DECISION AND ORDER

(LS 9908271 DEN)

Division of Enforcement

97 DEN 132

The parties to this proceeding for purposes of sec. 227.53, Stats., are:

*A. William Gloyeck, D.D.S.
10401 West Lincoln Avenue, Suite 102
West Allis, WI 53227*

*Wisconsin Dentistry Examining Board
1400 E. Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935*

*Department of Regulation And Licensing
Division of Enforcement
1400 E. Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935*

The Wisconsin Dentistry Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by A. William Gloyeck, D.D.S., personally, and by his attorney, Paul R. Erickson, and by Gilbert C. Lubcke, attorney for the Department of Regulation And Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Dentistry Examining Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. A. William Gloyeck, D.D.S., Respondent herein, 10401 West Lincoln Avenue, Suite 102, West Allis, Wisconsin, 53227, date of birth 2/23/52, is currently licensed and registered to practice dentistry in the state of Wisconsin, license #5001999, said license having been granted on 5/19/78.
2. Dr. Gloyeck is engaged in the practice of general dentistry.
3. E.C., the patient herein, was born on 9/17/59 and was Dr. Gloyeck's patient from 2/13/79 through 4/24/95.
4. Over the period of time that Dr. Gloyeck was providing dental care for the patient, Dr. Gloyeck took several dental x-rays for diagnostic purposes including bitewing x-rays on 4/30/81, 1/21/82, 2/15/84, 3/5/85, 6/24/86, 1/10/89, 2/14/91 and 5/25/93.

5. Dr. Gloyeck provided dental care for the patient on 2/13/79, 4/30/81, 1/21/82, 4/1/82, 2/15/84, 6/5/84, 3/5/85, 11/12/85, 6/24/86, 2/26/87, 2/17/88, 6/29/88, 1/10/89, 1/17/89 and 7/13/89, but did not obtain and record the patient's initial health history until 2/19/90. Dr. Gloyeck's failure to obtain and record a complete health history from the patient prior to 2/19/90 was a substantial departure from the standard of care ordinarily exercised by a dentist.

6. Dr. Gloyeck's failure to obtain and record a complete health history from the patient prior to commencing dental treatment created the unacceptable risk that significant factors relating to the patient's health would remain unknown to Dr. Gloyeck thereby preventing Dr. Gloyeck from making the appropriate treatment decisions to avoid or minimize the unacceptable risk of adverse consequences to the patient's health.

7. Dr. Gloyeck did not obtain a baseline full mouth set of x-rays for the patient at any time between 2/13/79, when he began providing dental care for the patient, and 4/24/95, when the patient terminated the dentist-patient relationship with Dr. Gloyeck. Dr. Gloyeck's failure to obtain a baseline full mouth set of x-rays within 5 years of his initial contact with the patient was a substantial departure from the standard of care ordinarily exercised by a dentist.

8. Dr. Gloyeck's failure to obtain a baseline full mouth set of x-rays for the patient within 5 years of the date of his initial contact with the patient created the unacceptable risk that the patient may have had existing pathology which would be diagnosable by x-ray but which would remain undiagnosed and untreated because it could not be identified by clinical examination. Dr. Gloyeck's failure to obtain a baseline full mouth set of x-rays also created the unacceptable risk that future pathology would remain undiagnosed and untreated because the absence of a baseline set of full mouth x-rays would compromise Dr. Gloyeck's ability to diagnose developing pathology by comparing subsequent x-rays with the baseline set of full mouth x-rays to identify changes due to the developing pathology.

9. Tooth #5 developed dental caries while the patient was receiving dental care from the Dr. Gloyeck. The bitewing x-ray taken by Dr. Gloyeck on 2/15/84 clearly showed the presence of dental caries in tooth #5. Dr. Gloyeck did not provide any treatment for tooth #5 at any time while the patient was under his care. Dr. Gloyeck's failure to diagnose and treat the dental caries in tooth #5 by 2/15/84 was a substantial departure from the standard of care ordinarily exercised by a dentist.

10. Dr. Gloyeck's failure to diagnose and treat the dental caries in tooth #5 by 2/15/84 created the unacceptable risk that the decay would progress into the pulp of the tooth resulting in nerve damage and infection and the necessity for a root canal.

11. Tooth #18 developed dental caries prior to the date on which Dr. Gloyeck began providing dental care for the patient. Dr. Gloyeck performed mesial-occlusal restorations of tooth #18 on 2/13/79, 6/5/84 and 2/14/91. On 2/14/91, Dr. Gloyeck failed to fully excavate the dental caries in tooth #18 before he placed the mesial-occlusal restoration. The bitewing x-ray taken by Dr. Gloyeck on 5/25/93 showed significant mesial decay under the restoration Dr. Gloyeck had placed on 2/14/91. On 3/14/94, Dr. Gloyeck performed a further excavation of the dental caries in tooth #18 and placed a mesial-occlusal-distal restoration. Dr. Gloyeck's failure to fully removed the dental caries in tooth #18 on 2/14/91 before placing the mesial-occlusal restoration was a substantial departure from the standard of care ordinarily exercised by a dentist.

12. Dr. Gloyeck's failure to fully remove the dental caries in tooth #18 on 2/14/91 before placing the mesial-occlusal restoration created the unacceptable risk that the decay would progress into the pulp of the tooth resulting in nerve damage and infection and the necessity for a root canal.

13. Tooth #20 developed dental caries while the patient was receiving dental care from Dr. Gloyeck. The bitewing x-ray taken by Dr. Gloyeck on 5/25/93 clearly showed the presence of the dental caries in tooth #20. Dr. Gloyeck did not provide any treatment for tooth #20 at any time while the patient was under his care, but did refer the patient to an endodontist for root canal therapy on or about 3/1/95. Dr. Gloyeck's failure to diagnose and treat the dental caries in tooth #20 by 5/25/93 was a substantial departure from the standard of care ordinarily exercised by a dentist.

14. Dr. Gloyeck's failure to diagnose and treat the dental caries in tooth #20 by 5/25/93 created the unacceptable risk that the decay would progress into the pulp of the tooth resulting in nerve damage and infection and the necessity for a root canal.

15. On 4/1/82, Dr. Gloyeck placed a large distal-occlusal-buccal amalgam in tooth #15. This amalgam had a large overhang that was clearly identifiable on the bitewing x-ray taken by Dr. Gloyeck on 5/25/93. Dr. Gloyeck did not take any action at any time to reduce or eliminate the overhang. Dr. Gloyeck's failure to take appropriate action to reduce or eliminate the overhang by 5/25/93 when it was clearly identifiable on the bitewing x-ray was a substantial departure from the standard of care ordinarily exercised by a dentist.

16. Dr. Gloyeck's conduct in failing to eliminate or reduce the overhang of the amalgam in tooth #15 made it more difficult for the patient to maintain good oral hygiene in that area thereby creating the unacceptable risk that the

patient would develop excessive plaque buildup, inflammation of the tissues and periodontal disease with potential bone loss.

CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction in this proceeding pursuant to sec. 447.07, Stats.
2. The Wisconsin Dentistry Examining Board has the authority to resolve this disciplinary proceeding by stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.
3. Dr. Gloyeck's conduct as described in the Findings of Fact was conduct contrary to sec. 447.07(3)(a), Stats. and Wis. Admin. Code sec. DE 5.02(5).
4. The Wisconsin Dentistry Examining Board has the authority pursuant to sec. 440.22, Stats., to assess the costs of this proceeding against Dr. Gloyeck.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that A. William Gloyeck's license to practice dentistry in the State of Wisconsin is limited under the following terms and conditions:

1. Dr. Gloyeck will participate in an education program administered by the Marquette University School of Dentistry under the supervision of the Dean of the Marquette University School of Dentistry. This education program will be developed and structured as follows:

- a. The Marquette University School of Dentistry will conduct an assessment of Dr. Gloyeck's skills and knowledge in the areas of dental recordkeeping, dental/medical history and clinical examination protocols, diagnostic dental radiology and restorative dentistry. The purpose of the assessment is to assist the Marquette University School of Dentistry in developing an education program for Dr. Gloyeck which addresses each of these aspects of dental practice. As a part of the assessment, the Marquette University School of Dentistry will require Dr. Gloyeck to produce a minimum of 10 complete dental charts, including dental x-rays, of patients treated or examined by him. These complete dental charts will be selected by Marquette University School of Dentistry from a list compiled by Dr. Gloyeck. The list will identify each patient he examined or treated in the 2 months preceding the date of the assessment with a brief statement of the reason for his contact with each patient and the length of time that the person has been his patient. The review of these selected

dental charts will not be limited to examinations conducted or treatments administered within the preceding two months, but will include a review of the complete dental record for each of the patient records selected. Dr. Gloyeck and the Marquette University School of Dentistry will take adequate precautions to protect patient confidentiality. The Marquette University School of Dentistry will also utilize records and other documents from the investigative file compiled by the Department of Regulation and Licensing, Division of Enforcement, in support of this disciplinary action to assist with the assessment. Marquette University School of Dentistry may also utilize techniques in addition to the dental records review to perform the assessment. The dates and times for conducting the assessment will be determined by the Marquette University School of Dentistry. The assessment will be completed within 60 days of the date of this Final Decision And Order.

- b. The Marquette University School of Dentistry will develop an education program that will include components in dental recordkeeping, dental/medical history and clinical examination protocols, diagnostic dental radiology, and restorative dentistry within 30 days of completion of the assessment and will submit the proposed education program to the Dentistry Examining Board or its designee for approval prior to implementation of the education program. The education program may consist of academic instruction, clinical instruction or both. If after conducting the assessment, Marquette University School of Dentistry is of the opinion that any component of the education program is not necessary because Dr. Gloyeck's skill, knowledge and technique are in conformity with the standard of care, Marquette University School of Dentistry may recommend to the Dentistry Examining Board that this component be excluded from the education program and supply documentation from the assessment in support of this recommendation. The Dentistry Examining Board retains the final

authority to determine whether to accept this recommendation and approve the education program without this component. If the Dentistry Examining Board does not accept the recommendations of the Marquette University School of Dentistry and approve the education program, this disciplinary proceeding will be remanded to the Division of Enforcement for further proceedings. If the Dentistry Examining Board does not accept the education program and the matter is remanded to the Division of Enforcement, the results of the assessment performed by the Marquette University School of Dentistry will be admissible in the disciplinary proceedings on the issue of what discipline, if any, should be imposed. If the Marquette University School of Dentistry is unable to develop an education program for Dr. Gloyeck, the Marquette University School of Dentistry will so notify the Wisconsin Dentistry Examining Board and this matter will be returned to the Division of Enforcement for further proceedings.

c. Dr. Gloyeck will commence the education program within 45 days of the date on which the Dentistry Examining Board or its designee approves the education program. Prior to commencing the education program, the Marquette University School of Dentistry

will establish a timetable for the implementation, progression and completion of each component of the education program and submit this timetable to the Dentistry Examining Board. Dr. Gloyeck will comply with this timetable.

d. Dr. Gloyeck will take and pass evaluations which may include oral and/or written components administered by the Marquette University School of Dentistry in each of the components of the education program.

e. The Marquette University School of Dentistry will submit a report to the Dentistry Examining Board 10 days prior to every regularly scheduled meeting of the Dentistry Examining Board, advising the Dentistry Examining Board of Dr. Gloyeck's progress and whether he is in compliance with the timetable established by the Marquette University School of Dentistry for implementation, progression and completion of each component of the education program. The Department of Regulation and Licensing will notify Marquette University School of Dentistry of the dates of the regularly scheduled meetings of the Dentistry Examining Board.

f. Dr. Gloyeck will satisfactorily complete all components of the education program including all evaluations administered by the Marquette University School of Dentistry within 18 months of the date of this Final Decision And Order.

g. Upon satisfactory completion of all components of the education program and of the oral and written evaluations related to these components, the Marquette University School of Dentistry will certify satisfactory completion of the education program to the Dentistry Examining Board.

h. Dr. Gloyeck will be responsible for the full costs of the assessment, the education program and the evaluations and will make payment to the Marquette University School of Dentistry in accordance with a payment schedule established by the Marquette University School of Dentistry.

2. Dr. Gloyeck's practice will be monitored for a period of 1 year from the date on which the Dentistry Examining receives certification from the Marquette University School of Dentistry that Dr. Gloyeck has satisfactorily completed the education program. The purpose for the monitor function is to assist Dr. Gloyeck with the incorporation of the information he acquired through the education program into his practice of general dentistry. The Dentistry Examining Board will select the person to perform the monitor function. The monitoring will be accomplished by review of Dr. Gloyeck's dental records including, but not limited to, treatment records, dental x-rays and consultation reports for patients examined or treated by Dr. Gloyeck within the 3 months preceding the date of the review. The monitor function and record review will be conducted every 3 months commencing 3 months after the Dentistry Examining Board receives the certification from the Marquette University School of Dentistry that Dr. Gloyeck has satisfactorily completed the education program. Dr. Gloyeck will maintain a list of all patients examined or treated by him in the 3 months preceding each review and brief descriptions of the presenting dental problems and the treatments administered to each patient. Dr. Gloyeck will provide this list to the person performing the monitor function within a reasonable period of time prior to the record review to permit him or her to select from the list the patient records to review. The review will also include a discussion between the person reviewing the records and Dr. Gloyeck regarding the diagnoses, treatments and record keeping practices in each of the cases reviewed. The person reviewing the records will file a report with the Dentistry Examining Board following each review of the records describing the results of the review. If Dr. Gloyeck has fully complied with the procedures for implementing and performing the monitor function as set forth in this Final Decision And Order, the observations made in the report by the person performing the monitor function will not serve as a basis for an action alleging that Dr. Gloyeck has violated Wis. Admin. Code sec. DE 5.02(17) by failing to comply with the Final Decision And Order of the Dentistry Examining Board. A report from the person performing the monitor function may serve as the basis for initiating a subsequent investigation of Dr. Gloyeck's conduct or practices if the Dentistry Examining Board believes that the

conduct or practices described in the report may constitute a violation of the statutes or administrative code provisions. Dr. Gloyeck will pay the full costs of the monitor function including the professional fees of the person selected by the Dentistry Examining Board to perform the monitor function. Dr. Gloyeck will make payment in full of the fees associated with the monitor function within 30 days of the date on which the person performing the monitor function submits a statement for professional services and expenses.

3. All certifications, reports or other documents required to be filed with the Dentistry Examining Board under the terms of this limited license will be filed with:

Department Monitor

Department of Regulation and Licensing

Division of Enforcement

P.O. Box 8935

1400 East Washington Ave.

Madison, WI 53708-8935

All certifications, reports or other documents required to be filed with the Dentistry Examining Board under the terms of this limited license will be deemed filed with the Dentistry Examining Board upon receipt by the Department Monitor.

IT IS FURTHER ORDERED that A. William Gloyeck, D.D.S., will pay the costs of this proceeding in the amount of \$1,030.00 to the Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin, 53708-8935 within 90 days of the date of this Final Decision And Order.

IT IS FURTHER ORDERED that A. William Gloyeck, D.D.S. will appear before the Dentistry Examining Board, as the Dentistry Examining Board directs, after the Marquette University School of Dentistry has certified satisfactory completion of the education program to the Dentistry Examining Board and after the 1 year period of monitoring has concluded. If Dr. Gloyeck has fully complied with the terms of this Order and Dr. Gloyeck has satisfied all other requirements for licensure, the Dentistry Examining Board will reinstate a full and unrestricted license.

IT IS FURTHER ORDERED that if Dr. Gloyeck fails to comply with any of the provisions of this Final Decision And Order or fails to comply with the timetable established by the Marquette

University School of Dentistry for implementation, progression and completion of each component of the education program, his license to practice dentistry in the State of Wisconsin may be summarily suspended.

The rights of a party aggrieved by this Final Decision And Order to petition the Wisconsin

Dentistry Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 3rd day of May, 2000.

WISCONSIN DENTISTRY EXAMINING BOARD

Mark Curran, DDS

Member, Wisconsin Dentistry Examining Board

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